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February 21, 2023

**Via ECF and email**

Hon. Sean H. Lane, U.S.B.J.  
300 Quarropas Street  
White Plains, NY 10601-4140

**RE: Markowitz v. Zaks (23-07005)**

Dear Judge Lane:

The undersigned is counsel to the Individual Defendants and co-counsel to the Nominal Defendant CRDI in the above-referenced adversary proceeding. We are in receipt of Mr. Rivkin's letter of February 20, 2023, filed at 11:58 pm last evening. We will not litigate by letter either the existing motion to cancel the notice of pendency, nor any threatened future motion for remand, nor the future motion for disqualification of Mr. Klestadt as co-counsel for CRDI.<sup>1</sup> Presently before the Court are two matters: (i) Defendant's motion to cancel the Notice of Pendency, and (ii) Defendant's request for a discovery conference given Mr. Rivkin's refusal to participate in a statutorily required Rule 26 conference in advance of the scheduled pretrial conference. As to the former, we have filed our motion papers, and we will respond to whatever opposition is filed in a timely manner. But we will not litigate that issue by letter. As to the latter, Mr. Rivkin can present whatever argument he wishes at the conference, should the Court deem it appropriate to conduct the same. But, similarly, we will not litigate that issue by letter.

Thank you for your attention.

Respectfully,

s/ *Michael Levine*

MICHAEL LEVINE

cc. All counsel (via email).

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<sup>1</sup> This Court is quite familiar with Mr. Klestadt's reputation for integrity and professionalism. I believe it absolutely *abhorrent* for counsel to cast aspersions on the same when he admittedly does "not have enough information to file a motion to disqualify Mr. Klestadt for conflict of interest." If Mr. Klestadt believes it appropriate to respond directly to Mr. Rivkin on what is clearly a speculative matter, that is up to him.